

AMENDED IN SENATE JUNE 27, 2006

AMENDED IN SENATE JUNE 19, 2006

AMENDED IN ASSEMBLY MAY 2, 2006

AMENDED IN ASSEMBLY APRIL 19, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 2390**

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**Introduced by Committee on Utilities and Commerce (Levine  
(Chair), Bogh (Vice Chair), Blakeslee, Cohn, De La Torre,  
Jerome Horton, Montanez, and Ridley-Thomas)**

February 23, 2006

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An act to amend Sections ~~1731, 1756, 1768, and 1769~~ of 321.6, 1731, 1756, 1768, and 1769 of, to add Section 384.2 to, and to repeal Sections 316 and 321.7 of, the Public Utilities Code, ~~relating to the public utilities~~ and to repeal Section 13 of Chapter 856 of the Statutes of 1996, relating to the Public Utilities Commission.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2390, as amended, Committee on Utilities and Commerce. Public Utilities Commission: *reporting requirements*: rehearings and judicial review.

(1) *Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Under the Public Utilities Act, the commission requires electrical corporations to identify a separate rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. The*

*funds are collected, in part, to support cost-effective energy efficiency and conservation activities.*

*This bill would require the commission to report to the Legislature by July 15, 2009, and triennially thereafter, on the energy efficiency and conservation programs overseen by the commission, as specified. This bill would also recast various requirements that the commission prepare and submit a specified account, work plan, and report at various times to require the plan, accounting, and report to be submitted annually to the Governor and Legislature no later than February 1 of each year, as specified.*

~~(1)–~~

(2) Existing law, after any order or decision has been made by the Public Utilities Commission, authorizes any party to the action or proceeding, or any stockholder or bondholder or other party pecuniarily interested in the public utility affected, to apply for a rehearing with respect to any matter determined in the action or proceeding and specified in the application for rehearing. Existing law prohibits a cause of action arising out of any order or decision of the commission from accruing in a court to a corporation or person unless the corporation or person has filed an application to the commission for a rehearing within a specified amount of time after the date of issuance of an order or decision. Existing law defines date of issuance, for the purposes of these provisions, to mean the date on which the commission mails the order or decision to the parties to the action or proceeding.

This bill would require the commission to notify the parties of the issuance of an order or decision by either mail or, with the consent of an affected party, by electronic transmission, as specified. The bill would revise the definition of “date of issuance” to mean the mailing or electronic transmission date that is stamped on the official version of the order or decision.

~~(2)–~~

(3) Existing law generally authorizes an aggrieved party to petition for a writ of review of an order or decision of the commission within 30 days after the commission issues its decision denying an application for a rehearing, or, if the commission grants the application, within 30 days after the commission issues its decision on rehearing. Existing law specifies that the issuance of a decision or the granting of an application, for the purposes of these provisions, is to be construed to have occurred on the date on which the commission

mails the decision or the granting of the application to the parties to the action or proceeding. Existing law requires the petition for review to be served on the executive director of the commission.

This bill would specify that the issuance of a decision or the granting of an application is to be construed to have occurred on the date of issuance, as defined, for the purposes of these provisions and certain other provisions setting forth judicial review procedures for specified orders or decisions of the commission. The bill, in addition, would require the petition for review to be served on the general counsel of the commission.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 384.2 is added to the Public Utilities*  
2     *Code, to read:*

3     384.2. *The commission shall submit a report to the*  
4     *Legislature by July 15, 2009, and triennially thereafter, on the*  
5     *energy efficiency and conservation programs it oversees. The*  
6     *report shall include information regarding authorized utility*  
7     *budgets and expenditures and projected and actual energy*  
8     *savings over the program cycle.*

9     *SEC. 2. Section 1 of this act supersedes the reporting*  
10    *requirements of Section 2 of Item 8660-001-0462 of the*  
11    *Supplemental Report of the 1999 Budget Act.*

12    *SEC. 3. Section 316 of the Public Utilities Code is repealed.*

13    ~~316. The commission shall submit to the Governor on or~~  
14    ~~before the first day of December of each year, a report containing~~  
15    ~~a complete account of its transactions and proceedings for the~~  
16    ~~preceding fiscal year, together with such other facts, suggestions,~~  
17    ~~and recommendations as it deems of value to the people of the~~  
18    ~~State.~~

19    *SEC. 4. Section 321.6 of the Public Utilities Code is amended*  
20    *to read:*

21    321.6. ~~The commission shall develop,~~ *do all of the following:*

22    (a) *Develop, publish, and annually update an annual work plan*  
23    *that describes in clear detail the scheduled ratemaking*  
24    *proceedings and other decisions that may be considered by the*  
25    *commission during the calendar year. The plan shall include, but*

1 is not limited to, information on how members of the public and  
2 ratepayers can gain access to the commission's ratemaking  
3 process and information regarding the specific matters to be  
4 decided. The plan shall also include information on the operation  
5 of the office of the public advisor and identify the names and  
6 telephone numbers of those contact persons responsible for  
7 specific cases and matters to be decided. *The plan shall also*  
8 *include a statement that specifies activities that the commission*  
9 *proposes to reduce the costs of, and rates for, energy, including*  
10 *electricity, and for improving the competitive opportunities for*  
11 *state agriculture and other rural energy consumers.* The  
12 commission shall post the plan under the Official Documents  
13 area of its Internet Web site and shall develop a program to  
14 disseminate the information in the plan utilizing computer  
15 mailing lists to provide regular updates on the information to  
16 those members of the public and organizations which request that  
17 information. ~~The annual work plan shall be transmitted to the~~  
18 ~~Legislature between January 15 and February 1 of each year.~~

19 (b) *Produce a complete accounting of its transactions and*  
20 *proceedings for the preceding year, together with other facts,*  
21 *suggestions, and recommendations that it deems of value to the*  
22 *people of the state and a statement that specifies the activities*  
23 *and achievements of the commission in reducing the costs of, and*  
24 *rates for, energy, including electricity, for state agriculture and*  
25 *other rural energy consumers.*

26 (c) *Create a report on the number of cases where resolution*  
27 *exceeded the time periods prescribed in scoping memos and the*  
28 *days that commissioners presided in hearings.*

29 (d) *Submit annually the plan, accounting, and report required*  
30 *by subdivisions (a), (b), and (c) to the Governor and Legislature*  
31 *no later than February 1 of each year.*

32 SEC. 5. *Section 321.7 of the Public Utilities Code is repealed.*

33 ~~321.7. (a) The commission shall include in the annual work~~  
34 ~~plan access guide prepared by the commission pursuant to~~  
35 ~~Section 321.6 a statement that specifies activities that the~~  
36 ~~commission proposes to reduce the costs of, and rates for,~~  
37 ~~energy, including electricity, and for improving the competitive~~  
38 ~~opportunities for state agriculture and other rural energy~~  
39 ~~consumers.~~

1 ~~(b) The commission shall include in the annual report~~  
2 ~~submitted by the commission to the Governor pursuant to Section~~  
3 ~~316 a statement that specifies the activities and achievements of~~  
4 ~~the commission in reducing the costs of, and rates for, energy,~~  
5 ~~including electricity, for state agriculture and other rural energy~~  
6 ~~consumers.~~

7 **SECTION 1.**

8 *SEC. 6.* Section 1731 of the Public Utilities Code is amended  
9 to read:

10 1731. (a) The commission shall set an effective date when  
11 issuing an order or decision. The commission may set the  
12 effective date of an order or decision prior to the date of issuance  
13 of the order or decision.

14 (b) (1) After any order or decision has been made by the  
15 commission, any party to the action or proceeding, or any  
16 stockholder or bondholder or other party pecuniarily interested in  
17 the public utility affected, may apply for a rehearing in respect to  
18 any matters determined in the action or proceeding and specified  
19 in the application for rehearing. The commission may grant and  
20 hold a rehearing on those matters, if in its judgment sufficient  
21 reason is made to appear. No cause of action arising out of any  
22 order or decision of the commission shall accrue in any court to  
23 any corporation or person unless the corporation or person has  
24 filed an application to the commission for a rehearing within 30  
25 days after the date of issuance or within 10 days after the date of  
26 issuance in the case of an order issued pursuant to either Article  
27 5 (commencing with Section 816) or Article 6 (commencing with  
28 Section 851) of Chapter 4 relating to security transactions and the  
29 transfer or encumbrance of utility property.

30 (2) The commission shall notify the parties of the issuance of  
31 an order or decision by either mail or electronic transmission.  
32 Notification of the parties may be accomplished by one of the  
33 following methods:

34 (A) Mailing the order or decision to the parties to the action or  
35 proceeding.

36 (B) If a party to an action or proceeding consents in advance to  
37 receive notice of any order or decision related to the action or  
38 proceeding by electronic mail address, notification of the party  
39 may be accomplished by transmitting an electronic copy of the

1 official version of the order or decision to the party if the party  
2 has provided an electronic mail address to the commission.

3 (C) If a party to an action or proceeding consents in advance to  
4 receive notice of any order or decision related to the action or  
5 proceeding by electronic mail address, notification of the party  
6 may be accomplished by transmitting a link to an Internet-~~web~~  
7 *Web* site where the official version of the order or decision is  
8 readily available to the party if the party has provided an  
9 electronic mail address to the commission.

10 (3) For the purposes of this article, “date of issuance” means  
11 the mailing or electronic transmission date that is stamped on the  
12 official version of the order or decision

13 (c) No cause of action arising out of any order or decision of  
14 the commission construing, applying, or implementing the  
15 provisions of Chapter 4 of the Statutes of the 2001–02 First  
16 Extraordinary Session that (1) relates to the determination or  
17 implementation of the department’s revenue requirements, or the  
18 establishment or implementation of bond or power charges  
19 necessary to recover those revenue requirements, or (2) in the  
20 sole determination of the Department of Water Resources, the  
21 expedited review of order or decision of the commission is  
22 necessary or desirable, for the maintenance of any credit ratings  
23 on any bonds or notes of the department issued pursuant to  
24 Division 27 (commencing with Section 80000) of the Water  
25 Code or for the department to meet its obligations with respect to  
26 any bonds or notes pursuant to that division, shall accrue in any  
27 court to any corporation or person unless the corporation or  
28 person has filed an application with the commission for a  
29 rehearing within 10 days after the date of issuance of the order or  
30 decision. The Department of Water Resources shall notify the  
31 commission of any determination pursuant to paragraph (2) of  
32 this subdivision prior to the issuance by the commission of any  
33 order or decision construing, applying, or implementing the  
34 provisions of Chapter 4 of the Statutes of the 2001–02 First  
35 Extraordinary Session. The commission shall issue its decision  
36 and order on rehearing within 20 days after the filing of the  
37 application.

38 ~~SEC. 2.~~

39 *SEC. 7.* Section 1756 of the Public Utilities Code is amended  
40 to read:

1 1756. (a) Within 30 days after the commission issues its  
2 decision denying the application for a rehearing, or, if the  
3 application was granted, then within 30 days after the  
4 commission issues its decision on rehearing, or at least 120 days  
5 after the application is granted if no decision on rehearing has  
6 been issued, any aggrieved party may petition for a writ of  
7 review in the court of appeal or the Supreme Court for the  
8 purpose of having the lawfulness of the original order or decision  
9 or of the order or decision on rehearing inquired into and  
10 determined. If the writ issues, it shall be made returnable at a  
11 time and place specified by court order and shall direct the  
12 commission to certify its record in the case to the court within the  
13 time specified.

14 (b) The petition for review shall be served upon the executive  
15 director and the general counsel of the commission either  
16 personally or by service at the office of the commission.

17 (c) For purposes of this section, the issuance of a decision or  
18 the granting of an application shall be construed to have occurred  
19 on the date of issuance, as defined in paragraph (4) of  
20 subdivision (b) of Section 1731.

21 (d) The venue of a petition filed in the court of appeal pursuant  
22 to this section shall be in the judicial district in which the  
23 petitioner resides. If the petitioner is a business, venue shall be in  
24 the judicial district in which the petitioner has its principal place  
25 of business in California.

26 (e) Any party may seek from the Supreme Court, pursuant to  
27 California Rules of Court, an order transferring related actions to  
28 a single appellate district.

29 (f) For purposes of this section, review of decisions pertaining  
30 solely to water corporations shall only be by petition for writ of  
31 review in the Supreme Court, except that review of complaint or  
32 enforcement proceedings may be in the court of appeal or the  
33 Supreme Court.

34 (g) No order or decision arising out of a commission  
35 proceeding under Section 854 shall be reviewable in the court of  
36 appeal pursuant to subdivision (a) if the application for  
37 commission authority to complete the merger or acquisition was  
38 filed on or before December 31, 1998, by two  
39 telecommunications-related corporations including at least one  
40 which provides local telecommunications service to over one

1 million California customers. These orders or decisions shall be  
2 reviewed pursuant to the Public Utilities Code in existence on  
3 December 31, 1998.

4 ~~SEC. 3.~~

5 *SEC. 8.* Section 1768 of the Public Utilities Code is amended  
6 to read:

7 1768. The following procedures shall apply to judicial review  
8 of an order or decision of the commission interpreting,  
9 implementing, or applying the provisions of Chapter 4 of the  
10 Statutes of the 2001–02 First Extraordinary Session that (1)  
11 relates to the determination or implementation of the revenue  
12 requirements of the Department of Water Resources or the  
13 establishment or implementation of bond or power charges  
14 necessary to recover those revenue requirements, or (2) in the  
15 sole determination of the department, the expedited review of an  
16 order or decision of the commission is necessary or desirable, for  
17 the maintenance of any credit ratings on any bonds or notes of  
18 the department issued pursuant to Division 27 (commencing with  
19 Section 80000) of the Water Code or for the department to meet  
20 its obligations with respect to any bonds or notes pursuant to that  
21 division:

22 (a) Within 30 days after the commission issues its order or  
23 decision denying the application for a rehearing, or, if the  
24 application is granted, then within 30 days after the commission  
25 issues its decision on rehearing, any aggrieved party may petition  
26 for a writ of review in the California Supreme Court for the  
27 purpose of determining the lawfulness of the original order or  
28 decision or of the order or decision on rehearing. If the writ  
29 issues, it shall be made returnable at a time and place specified  
30 by court order and shall direct the commission to certify its  
31 record in the case to the court within the time specified. No order  
32 of the commission interpreting, implementing, or applying the  
33 provisions of Chapter 4 of the Statutes of the 2001–02 First  
34 Extraordinary Session shall be subject to review in the courts of  
35 appeal.

36 (b) The petition for review shall be served upon the executive  
37 director and the general counsel of the commission either  
38 personally or by service at the office of the commission.

39 (c) For purposes of this section, the issuance of a decision or  
40 the granting of an application shall be construed to have occurred



1 on the date of issuance, as defined in paragraph (4) of  
2 subdivision (b) of Section 1731.

3 (d) All actions and proceedings under this section and all  
4 actions or proceedings to which the commission or the people of  
5 the State of California are parties in which any question arises  
6 under this section, or under or concerning any order or decision  
7 of the commission under this section, shall be preferred over, and  
8 shall be heard and determined in preference to, all other civil  
9 business except election causes, irrespective of position on the  
10 calendar.

11 (e) The provisions of this article apply to actions under this  
12 section to the extent that those provisions are not in conflict with  
13 this section.

14 ~~SEC. 4.~~

15 *SEC. 9.* Section 1769 of the Public Utilities Code is amended  
16 to read:

17 1769. The following procedures shall apply to judicial review  
18 of an order or decision of the commission interpreting,  
19 implementing, or applying the provisions of Article 5.6  
20 (commencing with Section 848) of Chapter 4:

21 (a) Within 10 days after the commission issues its order or  
22 decision denying the application for a rehearing, or, if the  
23 application is granted, then within 10 days after the commission  
24 issues its decision on rehearing, any aggrieved party may petition  
25 for a writ of review in the California Supreme Court for the  
26 purpose of determining the lawfulness of the original order or  
27 decision or of the order or decision on rehearing. If the writ  
28 issues, it shall be made returnable at a time and place specified  
29 by court order and shall direct the commission to certify its  
30 record in the case to the court within the time specified. No order  
31 of the commission interpreting, implementing, or applying the  
32 provisions of Article 5.6 (commencing with Section 848) of  
33 Chapter 4 shall be subject to review in the courts of appeal.

34 (b) The petition for review shall be served upon the executive  
35 director and the general counsel of the commission either  
36 personally or by service at the office of the commission.

37 (c) For purposes of this section, the issuance of a decision or  
38 the granting of an application shall be construed to have occurred  
39 on the date of issuance, as defined in paragraph (4) of  
40 subdivision (b) of Section 1731.

1 (d) The Legislature hereby declares that if a writ issues in an  
2 action under this section, delay in the determination of the writ  
3 will delay implementation of a securitized financing, thereby  
4 diminishing approximately \$1 billion of total savings to Pacific  
5 Gas and Electric Company's ratepayers that might be achieved if  
6 a securitized financing were implemented immediately.  
7 Therefore, to maximize ratepayer benefits, review under this  
8 section should be expedited.

9 (e) The provisions of this article apply to actions under this  
10 section to the extent that those provisions are not in conflict with  
11 this section.

12 (f) This section shall remain in effect only until January 1,  
13 2008, and as of that date is repealed, unless a later enacted  
14 statute, that is enacted before January 1, 2008, deletes or extends  
15 that date.

16 *SEC. 10. Section 13 of Chapter 856 of the Statutes of 1996 is*  
17 *repealed.*

18 ~~SEC. 13. On and after January 1, 1999, the Public Utilities~~  
19 ~~Commission shall annually submit a report to the Legislature on~~  
20 ~~the number of cases where resolution exceeded the time periods~~  
21 ~~prescribed in scoping memos and the days that commissioners~~  
22 ~~presided in hearings.~~